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B I L L

TO

Amend the law relating to Boards of Guardians in Ireland and to extend their powers under the Labourers (Ireland) Acts, and in other respects. A.D. 1895.

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

5 **1.** This Act may be cited for all purposes as the Boards of Guardians (Ireland) Act, 1895. Sheet title.

2. This Act shall not extend to England or Scotland.

*Application
of Act.
Definitions.*

3. In this Act, except where the context otherwise requires, the following words and expressions shall have the meaning hereby
10 assigned to them respectively; that is to say,

"Poor law election" means any election of a guardian or guardians for any electoral division or ward, or any district of electoral divisions in a union for the relief of the destitute poor, within the meaning of the Act of the first and second
15 years of the reign of Her present Majesty, chapter fifty-six, and the Acts amending the same:

"Local Government Board" means the Local Government Board for Ireland:

"Electoral division" includes "ward" or a district of electoral divisions:
20

"Agent" includes counsel or solicitor:

"Days" means clear days, exclusive of Sunday, Good Friday, and Christmas Day:

"Prescribed," in the first, second, and fourth parts of this Act, means prescribed by order made and issued by the Local Government Board pursuant to this Act; and in the third part
25 of this Act, means prescribed by rules or orders made under the thirty-first section of this Act.

[Bill 2.]

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A.D. 1895. Any words or expressions in this Act (except Part IV. thereof), which are not hereby defined, and are defined in the said Act of the first and second years of the reign of Her present Majesty, chapter fifty-six, or in any Act amending said Act, shall, unless there is something in the context of this Act repugnant thereto, 5 have the same meaning as in the last-mentioned Act or Acts, and the said Acts and this Act (except Part IV. thereof) shall be construed together as one Act.

PART I.

CONSTITUTION OF BOARDS OF GUARDIANS. 10

Abolition of ex officio guardians. 4. As from the date of the annual poor law election, which shall take place next after the *passing of this Act* boards of guardians shall be composed entirely of elective guardians, and there shall be no ex officio guardians.

Guardians to hold office for three years. 5. A poor law guardian elected after the *passing of this Act* 15 shall, unless elected to fill a casual vacancy resulting from death, resignation, disqualification, or otherwise, hold office for a term of *three years*, to be computed from the *twenty-fifth day of March* in the year of his election.

One-third part of the guardians to go out of office annually. 6.—(1.) On the prescribed day in the year *one thousand eight hundred and ninety-seven* one third of the guardians for each poor law union shall go out of office; on the prescribed day in the year *one thousand eight hundred and ninety-eight* another third of the said guardians shall go out of office; on the prescribed day in the year *one thousand eight hundred and ninety-nine* the remaining 25 third of the said guardians shall go out of office; and on the prescribed day in every subsequent year one third of the guardians for each union, being those who have been longest in office without re-election, shall go out of office.

(2.) The place of the retiring guardians shall in each instance be 30 forthwith supplied by the election of a like number of guardians, and a retiring guardian shall, if then qualified to act as guardian, be capable of being re-elected.

(3.) If the number of guardians for any union shall be some number not divisible by three, the Local Government Board shall 35 in each case by order determine what number of guardians as nearly one third as may be shall go out of office, so that no guardian shall remain in office longer than three years without being re-elected.

(4.) The day prescribed under this section shall be the *twenty-fifth day of March*, or some day within *fourteen days* next after the twenty-fifth day of March.

A.D. 1895.

(5.) The Local Government Board shall by order determine the rotation in which the guardians elected at the first election held under the provisions of this Act shall go out of office.

Casual vacancies.

7. In the case of any casual vacancy in the office of guardian the Local Government Board shall forthwith order a fresh election to fill such vacancy. When any person is elected to fill a casual vacancy in the office of guardian, he shall continue in office only so long as the person in whose place he is elected would have continued in office if such vacancy had not occurred.

8. In addition to the persons now entitled to vote at a poor law election for an electoral division, every person whose name is included in any register of parliamentary electors current at the date of such election in respect of the ownership or occupation of any dwelling-house, lands, or premises situate in such electoral division shall be entitled to vote at such election.

Parliamentary electors entitled to vote at poor law elections.

9. No person under the age of *twenty-one years* shall be entitled to vote at a poor law election nor shall a corporation aggregate or joint stock company or any officer appointed for the purpose by such corporation or company be entitled to vote at any such election.

Minors and corporations not to vote.

10. Each elector at a poor law election shall be entitled to give one vote and no more for each of any number of persons not exceeding the number to be elected.

Voter to give only one vote.

11. An elector shall not be entitled to appoint any person to vote as his proxy at any poor law election and every elector desiring (where necessary) to give a statement of his claim to vote at any election shall himself sign such statement.

Voters to vote in person.

12. A person shall be qualified to be elected and to be a guardian for a poor law union if at the date of the election such person shall be entitled to vote at the election of guardians in some electoral division within the union. No person shall be disqualified by sex or marriage from being a guardian. Nothing in this section shall entitle a person to be elected or to be a guardian who is disqualified by law for being a guardian.

Electors qualified to act as guardian.

A.D. 1895.

PART II.

POOR LAW ELECTIONS.

Voting at
poor law
elections to
be by ballot.

13. The votes at every contested poor law election shall be given by ballot, in manner provided in the case of parliamentary and municipal elections by the second section of the Ballot 5 Act, 1872.

Local
Government
Board to
frame rules
for the con-
duct of poor
law elections.

14. On or before the *thirty-first day of December one thousand eight hundred and ninety-five*, the Local Government Board shall by order under their seal prescribe the manner in which poor law elections shall after the commencement of this Act be conducted, 10 having regard to the provisions of this Act, and may from time to time thereafter by further order amend or vary such order, or any existing order, or may rescind such order or any existing order and issue a new order: Provided, however, that the enactments applying to other orders and general rules of the Local Government 15 Board shall also apply to orders made under this section. Every such order shall direct the manner in which the expenses of elections shall be defrayed.

Provisions of
Ballot Act to
be adopted
in election
order.

15. In drawing up any such order as aforesaid the Local Government Board shall have regard to the provisions of the Ballot Act, 20 1872, and the schedules thereunto annexed, and, so far as such provisions are applicable and convenient, shall adopt same, and apply them, with the necessary modifications, to poor law elections under this Act, but no such order shall be impeachable for any alleged non-compliance with the provisions of this section. 25

Certain sec-
tions of the
Ballot Act
to be incor-
porated in
order.

16. The Local Government Board may embody in any such order the second, third, fourth, sixth, ninth, twelfth, thirteenth, and twenty-fourth sections of the Ballot Act, 1872, or some or any of them (save so much of said second section as relates to cases 30 where an equality of votes is found to exist between any two candidates), with such modifications as they may think necessary; and any such section when so embodied shall apply to poor law elections, and shall have the same force and effect as if herein expressly enacted.

Saving exist-
ing powers
of Local
Government
Board.

17. Nothing in this Act contained shall abridge or take away 35 any power previously vested in the Local Government Board of regulating poor law elections in any manner not inconsistent with this Act, and the powers conferred by this Act shall be deemed to be in addition to such existing powers.

18. At the prescribed time before the day fixed for the polling at any poor law election, the returning officer shall prepare in the prescribed manner a list of the persons entitled to vote at such election, and shall sign the same, and shall publish in the prescribed manner a notice stating that such list has been prepared, and when and where it may be inspected by any ratepayer. Every such list shall contain such particulars as may be prescribed, and a separate list shall be prepared for each electoral division. The list shall be kept in such convenient place as may be prescribed for six days after the publication of said notice, and during such six days shall be open to the inspection of any ratepayer, or his agent, between the hours of *ten* in the forenoon and *four* in the afternoon. At any time prior to but not after the signing of the register of voters by him as herein-after mentioned, the returning officer may in the prescribed manner add to, excise from, alter, or amend the list of voters, and (in the case of electors other than those qualified to vote as herein-before provided as being parliamentary electors) may add thereto the name of any ratepayer originally omitted therefrom because of the nonpayment of any poor rate, on being satisfied that such poor rate has since been paid.

A.D. 1896.

List of
voters to be
prepared.

19. The returning officer shall appoint a day or days, within the prescribed limits of time before the day fixed for the polling, to hear the claims of persons whose names have been omitted from any such list, and who claim to have their names inserted therein, or who object to the name of any person appearing in such list or to any claim; and of the day or days so fixed shall publish a notice in the prescribed manner. On the day or days so fixed the returning officer shall sit at such convenient place as may be prescribed, between the hours of *ten* in the forenoon and *six* in the afternoon, and shall hear any ratepayer, or his agent, making any such claim or any such objection, and, if satisfied of the validity thereof, shall allow same, and insert or strike out the name of such person in any such list or lists.

A day to be
fixed to hear
claims and
objections.

20. At the prescribed time before the day fixed for the polling the returning officer shall from such lists so amended prepare in the prescribed manner and sign the register of voters for such election, and when so signed the register shall not afterwards be altered. The register shall contain such particulars as may be prescribed, and a separate register shall be prepared for each electoral division, and the returning officer shall, on the demand of any person requiring the same, furnish a copy of the register for

Register of
voters to be
prepared.

A.D. 1894.

any electoral division at a charge not exceeding one shilling for each hundred names or fraction of a hundred names contained therein.

Register to
be conclu-
sive at
polling.

21. At any poor law election a person shall not be entitled to vote unless his name is on the register of voters, and every person whose name is on such register shall be entitled to the number of votes set opposite his name therein, and to vote accordingly, provided that on a petition as herein-after provided the register shall not be conclusive, and its correctness in any particular may be questioned.

10

PART III.

POOR LAW ELECTION PETITIONS.

Poor law
election may
be ques-
tioned by
petition.

22. The election of any person at a poor law election for an electoral division may be questioned by petition before the county court for the county and division within which is situate the workhouse for the union of which such electoral division forms part (herein-after referred to as the "court") on any one or more of the following grounds; that is to say,

- (a.) That such person was not duly elected by a majority of lawful votes: 20
- (b.) That such person was at the time of the election not duly qualified, or was disqualified to be a guardian:
- (c.) That the returning officer improperly refused to receive or act on the nomination of some other person, or improperly omitted to insert in the ballot paper the name of any person duly nominated: 25
- (d.) That the provisions of this Act or of any order of the Local Government Board for the time being in force relating to poor law elections were violated or were not observed in some material particular: 30
- (e.) That any name was improperly included in the register of voters, and that any person not entitled to do so was in consequence permitted to vote and voted at the election, or that any name was improperly omitted from the register: Provided that the court shall not avoid any election on the grounds of any such error, inclusion, or omission, unless satisfied that the result of the election might have been affected thereby: 35

(f.) That the office of guardian to fill which the election was held was not actually vacant at the time of such election: A.D. 1856.

(g.) That the election was avoided by undue influence, corrupt practice, or illegal practice, within the meaning of those expressions as used in the Corrupt and Illegal Practices Prevention Act, 1853.

23. A petition may be presented by any six persons on the register of voters for the electoral division, or by a person qualified at the time of the election to be a guardian and alleging himself to have been a candidate at the election, or to have been duly nominated as a candidate, or by any person alleging that the office of guardian to fill which the election was held was not actually vacant at the time of such election, and that he at that such office, or by two or more such persons. It shall be in scribed form, and shall be signed by the petitioner or petitioner it shall be presented to the court in the prescribed manner *fourteen days* after the day on which the poll shall be declared. Within *three days* after such presentation the or petitioners shall in the prescribed manner and form serve of the same and a copy of the petition on the person against whose election the petition is presented (he referred to as the "respondent"). Two or more persons made respondents to the same petition, and their case tried at the same time, but such petition shall never deemed to be a separate petition against each respondent returning officer of whose conduct a petition complain made a respondent to the petition. The petitioner or shall give security for the costs of the said petition to the amount and in the prescribed manner, and in case such not given the petition shall be dismissed.

24. Election petitions shall be tried by the court with at the quarter sessions held next after the expiration of *days* from the date of the presentation of same. The trial shall be in open court, and the court may adjourn the trial to time as may seem expedient. At the conclusion of the trial the court shall determine whether the person whose election was complained of or any or what other person was duly qualified to be a guardian at the time of the election, and whether the election was void, and shall forthwith give determination in writing to the Local Government upon such certificate being given such determination shall be final to all intents and purposes as to the matters at is

Procedure
on petition.

A.D. 1895. petition. In case the court shall certify that the election was void, the Local Government Board shall, without any application from the board of guardians, or other preliminary proceeding, forthwith order a new election to take place. On the trial of a petition claiming that some person other than the respondent was elected, 5 the respondent may give evidence to prove that such person was not duly elected in the same manner and on the same grounds as if he had presented a petition against the election of such person.

Special case
on question
of law.

25. If on the hearing of any election petition any question of law arises, the determination of which might affect the result of 10 the election, the court may of its own motion, and shall on the application of any of the parties to the petition, state such question of law in a special case, and refer the same for the consideration and decision of Her Majesty's Court of Appeal in Ireland. The said special case shall be heard and decided by the Court of Appeal 15 (which, if necessary, may order the same to be amended), and the decision of the said Court of Appeal thereon shall be final and conclusive to all intents and purposes, and shall be certified to the Local Government Board.

Powers of
court on
petition.

26. On the trial of an election petition under this Act, the court 20 shall have the same powers, jurisdiction, and authority with reference to same and the proceedings therein as it would have if such petition were an ordinary civil bill within its jurisdiction; provided that the court shall have power to impose a fine not exceeding *fifty pounds* on any person summoned to attend as a witness on the 25 hearing of such petition, and who neglects or refuses to attend such hearing. On the hearing of a petition, witnesses shall be sworn in the same manner as witnesses at the hearing of an ordinary civil bill, and shall be liable to the same penalties for perjury. It shall be the duty of the returning officer to attend the court on 30 the hearing of the petition, and then and there to produce the rate book, list, and register of voters for the electoral division in question, as also all statements of claim to vote in such electoral division, and the books in which same are registered.

Withdrawal
and abate-
ment of
petition.

27.—(1.) A petition may be withdrawn by leave of the court, but 35 not otherwise; and if on the hearing of the application for withdrawal any person or persons who might have been a petitioner or petitioners in respect of the election to which the petition relates shall apply to the court to be substituted as a petitioner or petitioners instead of the petitioner or petitioners so desirous of

withdrawing, the court shall grant such application, and the petition shall proceed accordingly. Where the petition is presented by more than one petitioner it shall not be withdrawn without the consent of all.

A.D. 1893.

- 5 (2.) A petition shall not abate save by the death of all the petitioners or all the respondents, if more than one. If, on the abatement of a petition by the death of a sole petitioner or of all the petitioners, any person or persons who might have been a petitioner or petitioners in respect of the election to which the
10 petition relates shall apply to the court to be substituted as a petitioner or petitioners, the court shall grant such application, and the petition shall proceed accordingly.

- (3.) A substituted petitioner shall stand in the same position as nearly as may be and be subject to the same liabilities as the
15 original petitioner.

28. A petition under this Act complaining of no return at any poor law election may be presented to the court by any qualified person claiming to have been duly elected thereat, and shall be deemed to be an election petition within the meaning of this Act,
20 and the court shall accordingly determine whether the petitioner or any and what other person was duly elected; and in case the court shall certify that no person was duly elected, the Local Government Board shall forthwith order a new election to take place. The returning officer and every person, other than the
25 petitioner, duly nominated as a candidate at such election, shall be named as respondent in any petition under this section. A petition under this section shall not abate save by the death of the petitioner.

Petition may
be presented
complaining
of no return.

29. All costs, charges, and expenses of and incidental to the
30 presentation of a petition under this Act, and to the proceedings consequent thereon, including the proper expenses of witnesses, shall be defrayed by the parties to the petition in such manner and in such proportions as the court may determine, and when costs or expenses are awarded by the court against any of the parties to
35 a petition they may be recovered in the same manner as the costs of an ordinary civil bill. Where a returning officer is made respondent to a petition he shall not be ordered to pay the petitioner's costs, except the court shall be of opinion that he was guilty of negligence or improper conduct in the matter of the
40 election or petition. The returning officer's costs of appearing as respondent and otherwise incidental to an election petition (save

Costs on
petitions.

A.D. 1895.

such costs as he may be ordered to pay as aforesaid in consequence of having been guilty of negligence or improper conduct) shall be defrayed out of the poor rates in the prescribed manner.

Acts done pending a petition not to be invalidated.

30. Where a candidate who has been declared elected as guardian at a poor law election is on petition declared not to have been duly elected, acts done by him as guardian before the time when the result of such petition has been certified to the Local Government Board shall nevertheless not be invalidated.

Rules, stamps, and costs.

31. For the purposes of this Part of this Act there shall be incorporated with this Act the following sections of the County Officers and Courts (Ireland) Act, 1877, as the same are amended by any other Act, as far as the same are applicable; that is to say,

Section seventy-nine, relative to rules and orders;

Section eighty-three, relative to fees and stamp duties;

Section eighty-four, relative to costs;

15

And the following sections of the Supreme Court of Judicature Act (Ireland), 1877, so far as they relate to the Court of Appeal in Ireland, as the same are amended by any other Act, and so far as same are applicable; that is to say,

Section sixty-one, relative to rules of court;

20

Section eighty-four, relative to fees.

Repeal of 6 & 7 Vict. c. 92, s. 23.

32. The twenty-third section of the Act of the sixth and seventh years of the reign of Her present Majesty, chapter ninety-two, shall be and the same is hereby repealed.

PART IV.

25

AMENDMENT OF LABOURERS ACTS.

Construction of this Part of Act.

33. This Part of this Act shall be construed with the Labourers (Ireland) Acts, 1863 to 1892 (herein-after referred to as "the said Acts") except in so far as the said Acts are expressly altered or varied by this Act or are inconsistent therewith and together with the said Acts may be cited as the Labourers (Ireland) Acts, 1863 to 1895, words or expressions in this Part of this Act which are not defined therein, and which are defined in the said Acts, shall, unless there is something in the context repugnant thereto, have the same meaning as in the said Acts.

35

Order confirming improvement.

34.—(1.) An order of the Local Government Board made under the seventh section of the Labourers (Ireland) Act, 1863, authorising

an improvement scheme under the said Acts to be carried into execution, shall not be a provisional order, but shall take effect forthwith on the making thereof notwithstanding that it authorises the purchase of any land, or the taking of any land for a term of 5 years otherwise than by agreement, and such order shall be of the same effect as if it had been confirmed by Parliament.

A.D. 1896.
scheme to
operate
forthwith.

(2.) The making of any such order shall be *prima facie* evidence that all the requirements of the said Acts in respect of proceedings required to be taken previously to the making of such order have been complied with.

(3.) The twelfth section of the Labourers (Ireland) Act, 1885, is hereby repealed.

35 35.—(1.) For the purpose of taking lands compulsorily by purchase under the provisions of the said Acts, the provisions of the Lands Clauses Acts with respect to the purchase and taking of lands otherwise than by agreement shall be deemed to be amended by the provisions contained in the Second Schedule to the Housing of the Working Classes Act, 1890, and such provisions shall (subject as herein-after provided) be deemed to form part of the said Acts in the same manner as if therein expressly enacted.

Application
of Lands
Clauses Acts
and Housing
of Working
Classes Act,
1890.

(2.) In the construction for the purposes of the said Acts of the provisions contained in said Second Schedule to the Housing of the Working Classes Act, 1890, the "local authority" shall mean the sanitary authority, the "confirming Act" shall mean the order of the Local Government Board authorising the improvement scheme to be carried into execution, the "confirming authority" shall mean the Local Government Board, and references to the Housing of the Working Classes Act, 1890, or to Part I. thereof, shall be deemed references to the said Acts.

30 36. A contract entered into by or with a sanitary authority for the purpose of carrying the provisions of the said Acts into effect shall be exempt from stamp duty.

Contracts
under La-
bourers Acts
exempt from
stamp duty.

35 37.—(1.) Where a sanitary authority has for the purposes of the said Acts taken any land on lease, compulsorily or otherwise, such sanitary authority may at any time thereafter by agreement with the person in whom the lessors interest in such lease is for the time being vested, purchase the lessors interest in such lease and the lands held thereunder.

Sanitary
authority
may purchase
under
Land Purchase
Acts land taken
on lease.

(2.) For the purposes of any such purchase as aforesaid, the land held under any such lease shall be deemed to be a holding to which the Land Purchase Acts apply, and the Land Commission may

[2.]

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A.D. 1895.

make advances to sanitary authorities to enable such purchases to be made in like manner as if the sanitary authority was a tenant in occupation of such holding.

(3.) The provisions of the Land Purchase Acts shall apply in the case of any such advance, but the annuity by which such advance is to be repaid shall be charged on any fund or rate now chargeable with the repayment of moneys borrowed by such sanitary authority for the purpose of defraying expenses incurred in carrying the said Acts into effect. The Land Commission shall not require any guarantee deposit to secure an advance made under the provisions of this section.

(4.) The price paid by a sanitary authority for the purchase of any lands under the provisions of this section shall not exceed *twenty years* purchase of the rent reserved in the lease under which the said lands are held by the sanitary authority.

(5.) Rules for carrying this section into effect shall be deemed to be rules under the Land Purchase Acts, and shall be made by the Land Commission accordingly.

(6.) "Land Commission" in this section means the Irish Land Commission, and "Land Purchase Acts" means the Land Purchase Acts as defined in the Purchase of Land (Ireland) Act, 1891.

Service of notice to owners, lessees, and occupiers when an agent need not be personal.

38. Where any notice to owners, lessees, and occupiers of lands proposed to be taken compulsorily served pursuant to the seventh section of the Labourers (Ireland) Act, 1893, is served on the agent of the person required to be served, such service need not be personal, but may be effected on such agent by leaving the notice at the usual place of abode or the office or place of business of such agent, or by forwarding the same by post in a prepaid letter addressed to the usual place of abode or the office or place of business of such agent.

Amendment of representation.

39. A representation made under the said Acts may be amended at any time prior or subsequent to the making of an improvement scheme in pursuance thereof, and the power of amendment hereby given shall include the power to permit any representation to be signed at any stage of the proceedings thereon by any person or persons duly qualified to sign the same, either in addition to or in substitution for the signatures already attached thereto; and such signing shall have the same effect as if the representation had been originally so signed. Any such signature so added shall be verified by a member or an officer of such sanitary authority. For the

purposes of this section a representation shall include any certificate of a sanitary officer accompanying or relating to the same.

A.D. 1886.

40. The sixth section of the Labourers (Ireland) Act, 1885, is hereby re-enacted, and from the passing of this Act shall be of full force and effect, notwithstanding anything contained in the eighteenth section of the Labourers (Ireland) Act, 1886.

Apportionment of rent-charge.
48 & 49 Vict.
c. 37. s. 6.
49 & 50 Vict.
c. 59. s. 13.

41. The fourteenth section of the Labourers (Ireland) Act, 1886, shall not apply to any lands taken by a sanitary authority for the purposes of the said Acts.

Application of 49 & 50
Vict. c. 59.
s. 14.

42. A letting by a sanitary authority to an agricultural labourer of any cottage and allotment shall be deemed to be a cottier tenancy within the meaning of the Landlord and Tenant Law Amendment Act (Ireland), 1860, notwithstanding that, by the terms of such letting, the tenant is bound to keep the windows of such cottage and the fences of such allotment in repair.

Conditions of letting to agricultural labourer.

43. This Act shall apply in the case of any improvement scheme or other proceeding under the said Acts pending at the date of the passing of this Act, notwithstanding that the same was initiated prior thereto.

Act to apply to pending scheme.

44. Notwithstanding anything contained in the twenty-second section of the Labourers (Ireland) Act, 1883, or the twenty-sixth section of the Labourers (Ireland) Act, 1885, the said Acts and this Act shall continue in force for a period of fifteen years from the passing of the said Labourers (Ireland) Act, 1883, and until the end of the then next session of Parliament.

Continuance of Acts.

Boards of Guardians
(Ireland) (Constitution
and Powers).

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B I L L

To amend the law relating to Boards of
Guardians in Ireland and to extend
their powers under the Locomotive
(Ireland) Acts, and in other respects.

*(Prepared and brought in by
Mr. Trevelyan, Mr. Stansfeld, Mr. Sturt, and
Mr. F. B. Sturt, Mr. Sturt, and Mr. Sturt.)*

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